



Office of the Mayor and Council  
City of College Park  
8400 Baltimore Avenue, Suite 375  
College Park, Maryland 20740  
Telephone: (240) 487-3501

**NOTICE OF FINAL DECISION  
of the  
MAYOR AND COUNCIL  
of the  
CITY OF COLLEGE PARK**

RE: Case No. CPV-2021-04 Name: Edgar Antonio Gonzalez Ramires

Address: 9022 49<sup>th</sup> Place, College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:

June 15, 2021.

**CERTIFICATE OF SERVICE**

This is to certify that on June 17, 2021 the attached Resolution was mailed, postage prepaid, to all persons of record.

**NOTICE**

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

Janeen S. Miller, CMC  
City Clerk

Copies to: Advisory Planning Commission  
City Attorney  
Applicant  
Parties of Record

PG Co. DER, Permits & Review Section  
M-NCPPC, Development Review Division  
City Public Services Department

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK  
ADOPTING THE RECOMMENDATION OF THE ADVISORY PLANNING  
COMMISSION REGARDING VARIANCE APPLICATION NUMBER CPV-2021-04,  
9022 49<sup>th</sup> PLACE, COLLEGE PARK, MARYLAND, RECOMMENDING  
APPROVAL OF A SIDE YARD SETBACK VARIANCE FROM THE PRINCE GEORGE'S  
COUNTY ZONING ORDINANCE SEC. 27-442(E) TABLE IV WHICH SPECIFIES A  
MINIMUM SIDE YARD SETBACK OF 8-FEET IN THE R-55 ZONE TO CONSTRUCT A  
SECOND-STORY ADDITION**

- WHEREAS,** the City of College Park ("City") has, pursuant to §190-1 *et seq.* of the Code of the City of College Park ("City Code"), and in accordance with Sec. 27-924 of the Prince George's County Zoning Ordinance (hereinafter, "Zoning Ordinance"), enacted procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot coverage, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and
- WHEREAS,** the City is authorized by § 190-1 *et seq.* to grant an application for a variance where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, and a variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan; and
- WHEREAS,** the Advisory Planning Commission ("APC") is authorized by §190-3 of the City Code to hear requests for variances from the terms of the Zoning Ordinance with respect to lot size, setback, and similar requirements including variances from Sec. 27-442 (e) Table IV, of the Zoning Ordinance, and to make recommendations to the City Council in connection therewith; and
- WHEREAS,** Section 27-442 (e) Table IV of the Zoning Ordinance specifies a minimum side yard setback of 8-feet in the R-55 zone; and
- WHEREAS,** on February 23, 2021, Robert Osorio ("Applicant"), submitted an application for property owner Edgar Antonio Gonzalez Ramires, for a 1-foot side yard setback variance in order to construct a second story addition at the property located at 9022 49<sup>th</sup> Place, College Park ("Property"); and
- WHEREAS,** on May 6, 2021, the APC conducted a hearing on the merits of the variance at which the APC heard testimony and accepted evidence including the staff report, exhibits, and the staff presentation with respect to whether the subject application meets the standards for granting a variance set forth in §190-4 of the City Code.

**WHEREAS,** at the hearing, Veronica Nixon, Roni Nixon and Andrew Joseph Nixon, residents at 9023 49<sup>th</sup> Place, testified that they had concerns about the proposed addition, such as overcrowding, inadequate parking, and construction noise; and

**WHEREAS,** at the hearing Staff and the Chairman explained that the authority of the Advisory Planning Commission with respect to this matter was only the question of whether or not to grant the request for a one-foot side yard setback variance and that other stated concerns would need to be addressed by contact with other City or Prince Georges County offices.

**WHEREAS,** based upon the evidence and testimony presented, the APC voted 4-0-0 to recommend the approval of the variance; and

**WHEREAS,** the Mayor and Council are authorized by §190-6 of the City Code to accept, deny or modify the recommendation of the APC or return the variance application to the Commission to take further testimony or reconsider its recommendation with respect to variance requests; and

**WHEREAS,** the Mayor and Council have reviewed the recommendation of the APC as to the application for a variance and in particular have reviewed the APC's findings of fact and conclusions of law; and

**WHEREAS,** no exceptions have been filed.

**NOW THEREFORE,** the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC with regard to CPV-2021-04 to approve a 1-foot side yard setback variance to allow the construction of a second story addition.

#### **Section 1 Findings of Fact**

- 1.1 The property has an area of 6,414 square feet and is improved with a 1.5-story, brick and frame house with dormers, a shed, a barbecue area, a deck, and a rear yard fence.
- 1.2 The property is a rectangular lot with a depth of 110 feet and a width of 58.33 feet.
- 1.3 The house is set back 25 feet from the front property line, 7 feet from the southern side property line and 10.73 feet from the northern side property line. The rear yard setback is 60.8-feet.
- 1.4 The subject house was constructed in 1943.
- 1.5 From on-site observation, it appears that a side-yard addition was constructed on the southern side of the property. No County or City permits exist for this work. Archival aerial photographs show this addition has existed at least since 1965. The second-story addition will be built atop the main house.
- 1.6 The property and immediate neighborhood are zoned R-55.
- 1.7 The property has similar setbacks as the immediate neighborhood.



- 1.8 The house was built prior to the adoption of zoning in this area (November 29, 1949) when the house was permitted to be located 7 feet from one of the side lot lines. The existing house is grandfathered but the new second story addition must comply with the current side yard setback requirement of 8 feet.
- 1.9 The Owner purchased the property on February 3, 2021.

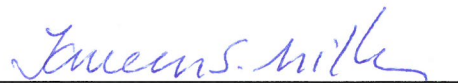
## **Section 2 Conclusions of Law**

- 2.1 There is an extraordinary situation associated with the property because the existing house does not meet current regulations for side yard setbacks. It is grandfathered but the proposed second story addition requires separate approval because it is new construction.
- 2.2 The strict application of the Zoning Ordinance will result in a peculiar and unusual practical difficulty to the Applicant by requiring a second story addition be set in by one foot from the edge of the top of the first floor, which has an effect on both the function and appearance of the addition.
- 2.3 Granting the variance will not substantially impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan because the existing location of the majority of the house will not change and the completed appearance of the residence will be consistent with other houses in the neighborhood.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the City of College Park to approve CPV-2021-04 for a 1-foot side yard setback variance to allow the construction of a second story addition.

**ADOPTED**, by the Mayor and Council of the City of College Park at a regular meeting on the 15<sup>th</sup> day of June, 2021.

CITY OF COLLEGE PARK

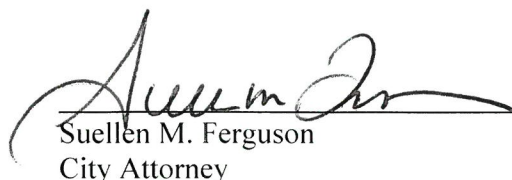


Janeen S. Miller, CMC  
City Clerk



Patrick L. Wojahn, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY



Suellen M. Ferguson  
City Attorney